U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLES E. BEARDEN and U.S. POSTAL SERVICE,
BEAMAN POST OFFICE, Gladbrook, IA

Docket No. 00-2772; Submitted on the Record;
Issued June 18, 2001

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a recurrence of disability causally related to his July 9, 1997 employment injury.

On July 10, 1997 appellant, then a 62-year-old rural carrier, filed a traumatic injury claim alleging that on July 9, 1997 a door in the floor at the employing establishment was left open and he fell into a basement stairwell, landing one-half to three-quarters of the way down the steps. Appellant further alleged that he broke two ribs, skinned up both arms and legs and sustained bruises all over his body. Appellant stopped work on July 9, 1997 and returned on July 28, 1997.

By letter dated December 12, 1997, the Office of Workers' Compensation Programs accepted appellant's claim for fractures of the sixth and seventh left ribs, chest wall abrasions, laceration and a contusion of the right leg, and a contusion of the left leg near the ankle.

On December 2, 1998 appellant filed a claim alleging that he sustained a recurrence of disability. Appellant stated that after he returned to work he experienced problems with his neck, lower back and left knee. Appellant's supervisor indicated that appellant had returned to full-duty work.

By decision dated March 11, 1999, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability causally related to his July 9, 1997 employment injury. In an April 8, 1999 letter, appellant requested an oral hearing.

In an April 11, 2000 decision, the hearing representative affirmed the Office's decision.

The Board finds that appellant has failed to establish that he sustained a recurrence of disability causally related to his July 9, 1997 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted

injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.[1]

In this case, appellant has not submitted rationalized medical evidence establishing that his current neck, lower back and left knee conditions were caused by the accepted July 9, 1997 employment injury. Medical evidence of record, which addressed the cause of appellant's current conditions, included a January 5, 1999 report of Dr. Margaret J. Fehrle, an orthopedic surgeon, revealing that appellant's discomfort from his neck, back and knee were probably related to his July 9, 1997 employment-related fall since he had no other complaints of these type of problems before his fall. She noted that she did not have any other documentation prior to the fall where appellant had ever been seen for any back, neck or knee pain.

Dr. Fehrle's opinion regarding the causal relationship between appellant's neck, back and knee, and the July 9, 1997 employment injury is insufficient to meet appellant's burden of proof. The Board has previously held that the opinion of a physician that a condition is causally related to an employment injury because the employee was asymptomatic before the employment injury was insufficient, without supporting medical rationale, to establish causal relationship.[2] Dr. Fehrle failed to provide any medical rationale to support her opinion concerning the cause of appellant's current conditions.

The January 11, 1999 report of Dr. Thomas J. Wicks, a chiropractor, indicted that appellant was in his office on July 1, 1998 complaining of left knee pain and increased neck pain due to removing tree debris after a storm. Dr. Wicks opined that this was an exacerbation of the original July 1997 injury. Under section 8101(2) of the Federal Employees' Compensation Act,[3] "[t]he term 'physician' includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation of the spine as demonstrated by x-ray to exist and subject to regulation by the Secretary."[4] If a chiropractor's reports are not based on a diagnosis of subluxation as demonstrated by x-ray to exist, they do not constitute competent medical evidence to support a claim for compensation.[5] Inasmuch as Dr. Wicks did not diagnose a subluxation as demonstrated by x-ray in his reports, he is not a physician under the Act. Therefore, his reports do not constitute competent medical evidence.

[1] *Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1993); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

[2] *Thomas D. Petrylak*, 39 ECAB 276 (1987).

[3] 5 U.S.C. §§ 8101-8193.

[4] 5 U.S.C. § 8101(2); *see also* 20 C.F.R. § 10.400(a); *Robert J. McLennan*, 41 ECAB 599 (1990); *Robert F. Hamilton*, 41 ECAB 431 (1990).

[5] *Loras C. Dignann*, 34 ECAB 1049 (1983).

Because appellant has failed to submit rationalized medical evidence establishing that his current neck, lower back and left knee conditions were causally related to his accepted July 9, 1997 employment injury, the Board finds that appellant has not satisfied his burden of proof.

The April 11, 2000 decision of the Office of Workers' Compensation Programs' hearing representative is hereby affirmed.

Dated, Washington, DC
June 18, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member